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WASHINGTON OFFICE—513 Fourteenth St. P. S. HEATH, Correspondent.

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IT is time to be thinking seriously of a good legislative ticket.

MR. COY does not forget that President Cleveland pardoned Mike Mullen.

INDIANAPOLIS wants electric light, but does not want any with "sugar" in it.

WHEN it comes to a scrimmage between spring and winter in May, spring generally comes out ahead.

WITHOUT Roswell P. Flower and his bar'l what would the New York Democracy do? He is an ever-present help in tight places.

THE snub administered to Governor Hill does not get his party out of the hole into which it is put by his veto of the high-license bill.

THE Hill faction in New York claim that the Governor will be renominated, and will be 20,000 stronger at the polls in November than Cleveland.

THE Kansas City Journal owes it to reputable journalism to make an example of its lying correspondent at Sabetha, Kan., who sent the bogus interview with Governor Porter.

PUBLIC franchises in Indianapolis are worth a fair return. The Councils should endeavor to make fair and equitable bargains with every man or corporation seeking to do business with the city.

THERE was a disposition in sporting circles yesterday to indulge in mild speculation over the number and the kinds of "fits" which the Sentinel would have on hearing of the dismissal of the Carnahan case.

ECHOES of that sweet refrain, "Wait till the clouds roll by," might have been heard in the neighborhood of the jail last night. Mr. Coy is supposed to have been the warbler. He is waiting for executive clemency.

ROSWELL P. FLOWER, who was chosen as one of the New York delegates-at-large to the St. Louis convention, is a perennial, but blooms in the spring, tra la, only ever fourth year. In the "off" years he is never heard of.

THE Cleveland machine worked with remarkable smoothness in New York on Tuesday, but David Bennett Hill is likely to make trouble any minute. The harmony that is maintained with a club is not of a lasting sort.

PRESIDENT CLEVELAND has the New York machine in fine working order, and absolutely under his dictation. The Republican who bases his calculations of electing the next President on New York alone should be bored for the simples.

THE Atlanta Constitution swallowed its principles in order to fall into line with Cleveland, but the bolus seems to disagree with it and make it very unhappy. The Constitution will break down if it does not change its medicine.

LET no guilty man escape. No matter what his politics, or want of politics, the man who violates the election laws and destroys the sanctity of the ballot should be punished to the extent of the law. The ballot-box is the last defense of free government.

THE Journal again remarks that all the companies now engaged in the work, with all their supply and with all their facilities, cannot furnish more gas than the people of Indianapolis can use. Before the next winter is over there is likely to be an access of information on this subject.

THE Cleveland machine will agree to give Governor Hill a renomination on promise of good behavior, but wouldn't trust him to act as delegate to St. Louis on the strength of any promises. David may be made useful to the tycoon at Washington, but is not to be allowed too much rope.

LOOK out now for applications to that consulship at New Britain, made vacant through the murder of the incumbent by natives. A little thing like an assassination will not head off hungry Democrats. The next appointee will, however, probably decline to act as arbitrator in family rows.

IT is announced that President Cleveland will attend the celebration of the battle of Gettysburg and read Abraham Lincoln's famous speech made at that place. There was once an ass who masqueraded in a lion's skin, but no one was deceived by the attempted disguise, or for a moment mistook the long-eared animal for the king of beasts. The reading of that speech by Cleveland will only serve to emphasize the dizzy contrast between the great war President, whose mind conceived it, and the accident of politics, who sympathized with the other side during the terrible four years. Old soldiers will be apt to regard this use of that great oration as something like sacrilege; but, after all, it is perhaps better that Cleveland should borrow words suitable to the occasion than to weary his hearers and disturb the spirit of the day with platitudes of his own.

QUESTIONABLE INTERFERENCE.

Immediately following the decision of the Supreme Court in the Coy-Bernhamer case the United States marshal received a telegram from Attorney-general Garland directing him to hold the prisoners here till further instructions. Assuming that such an order was received, it probably related to the movement for the pardon of Coy and Bernhamer, and was intended to hold them here until the verdict of the jury in the pending case should be known. If the jury in the present case should disagree, the President may find, or pretend to find, in that result a pretext for pardoning the convicted members of the gang. The sending of such an order by the Attorney-general would be a very strange proceeding, and we believe an unwarranted interference on his part with the course of justice. Coy and Bernhamer are now in the custody of the District Court, and in no way subject to the orders of the Attorney-general. They might even have been sent to Michigan City pending the habeas corpus proceedings in the Supreme Court, but judicial courtesy would naturally prevent that. The final decision of the Supreme Court remands the case to the District Court, and the prisoners to its custody. The Attorney-general has no authority over the prisoners, and an order from him for the retention of the prisoners would be extra official and unwarranted. Judge Woods would be fully justified in ignoring it and directing the prisoners to be taken to Michigan City forthwith. Under the circumstances, the holding of the prisoners has a suspicious look. If President Cleveland thinks he can justify the pardon of Coy and Bernhamer to the people of Indiana he is greatly mistaken. No matter what the verdict of the jury may be in the last case, these men are notoriously guilty, and have been pronounced so by a jury. The public welfare and all honest men demand their punishment. It has cost a great deal of time and money to convict them, and their pardon would turn the entire proceeding into a farce. If the President does this thing, he will hear thunder from Indiana all around the sky.

THE CARNAHAN CASE.

United States District Attorney Sellers yesterday moved the court to dismiss the case against Gen. James R. Carnahan, and it was so ordered. The full text of his motion and the reasons for it are printed in another column. It shows the nature of the charge against General Carnahan, the evidence on which it rested and the absolute baselessness of the government's case. It shows, first, that it was exceedingly doubtful if any law was violated by the issuance of the so-called Carnahan circular; second, that the circular was neither authorized, written nor signed by Carnahan; that he was out of the State when it was issued, and did not even know its contents or character until after the election. On this state of facts it was evident the government had no case whatever against Carnahan, and the district attorney therefore moved to dismiss it. This ending of the case is a complete vindication of General Carnahan. For many months past he has been a subject of villification from Democratic papers which have tried to put him on a par with Coy and to create the impression that he was indicted for the same crime, or one as bad. This was part of the scheme to divert public attention from the real culprits and to break the force of disclosures which were seen to be inevitable. It has been worked for all it was worth, and the result is before the public. The district attorney dismisses the case with the added statement that there is not a particle of evidence against General Carnahan. The result has been foreseen from the beginning by all acquainted with the facts in the case, and not wholly blinded by partisan malice. There is not an honest lawyer or intelligent man in this city who ever did believe that there was any case against General Carnahan, or that the circular to which his name was attached ever contemplated anything wrong. The attempt to place this on a par with the actual alteration of election returns by means of acids, pocket-knives and forgery was in keeping with the desperate tactics of the Coy gang. It will be in order now for the organ of the gang to howl. And it will do it.

THE Journal's theory as to the true reason for the resignation of Mr. Nash as general superintendent of the railway mail service, is confirmed by our Washington correspondent. It was because he would not sacrifice his own reputation and assist in the complete demoralization of the service in obedience to the clamor of greedy place-hunters of the Voorhees school. While the railway mail service has indeed been badly crippled by the changes already made, there are still enough efficient and capable clerks left to do the work after a fashion. Most of these are Republicans, and nobody knows the importance of retaining them better than the general superintendent. For obvious reasons Mr. Nash was opposed to a policy of wholesale removals of experienced men merely to make places for political workers, and rather than sacrifice his convictions and his reputation to the place-hunters he resigned. As soon as Don Dickinson can find somebody to take the place who will carry out his policy of sweeping removals we may expect to see the last vestige of efficiency in the railway mail service destroyed.

JUDGE WOODS'S charge to the jury yesterday was a very able and complete presentation of the facts and the law involved in the conspiracy case, the trial of which has just closed. The indictment was the same as that under which Coy and Bernhamer were convicted, and the evidence much the same, though strengthened in some points. Counsel traversed pretty much the same ground in their arguments, and the charge of the court necessarily follows closely the line of the former one. The recent decision of the Supreme Court removed all doubt on the question of jurisdiction, and enabled the judge to address the jury with a feeling that he was on solid ground. Inasmuch as the charge stated the law as it is, and the facts as they were proven, with all that they involved and implied, and stated both clearly and strongly, it is open to the charge of being very severe on the defendants. It is unfortunate for them that the law and the facts have been against them from the beginning; but Judge Woods is not responsible for that.

"JOHN SHERMAN is said to be doubtful of the ability of the Republican party to carry New York this year, and thinks the party should endeavor to win Indiana, New Jersey and Connecticut instead."

Wherefore John Sherman shows his usually level head. We do not give up the hope of carrying New York; but if the Republican campaign be planned upon that as the corner-stone and necessity, it will be built upon a sandy foundation. The ticket that can carry Indiana, New Jersey and Connecticut is a ticket that will stand as good a chance as any other of sweeping in New York, while the basis of the Republican canvass should be broad enough to include at least the two Virginias and Florida, and Tennessee and North Carolina. A campaign of this sort means Republican success.

MAJOR STEELE scored a great personal triumph yesterday in the passage of his bill by the House appropriating $200,000 for the establishment of a soldiers' home in Grant county. It is stated that the bill will meet with opposition in the Senate, but it is to be hoped that the measure may become a law. The Journal takes no stock in the spirit that would prefer that the Home should not be established, except at some particular locality. Anywhere in Indiana will suit the Journal, and Grant county is as good a place as can be found. The Journal is for Indiana, and we hope the project will be realized.

THE Washington correspondent of the Philadelphia Times says there is only one man who knows Mr. Blaine's precise plans, and "he does not belong to the Pennsylvania contingent of that gentleman's supporters." As the editor of the Times has been posing as one who was the confidential depository of all the Blaine secrets, this statement seems to require some explanation. The Washington correspondence of the paper should be more carefully edited, or this Democratic boomer will get tangled up in its own yarns.

GENERAL CARNAHAN deserves much credit for the quiet and dignified manner in which he has borne, for several months, the storm of Democratic abuse. He knew he was entirely innocent of any wrong, as did his friends, and there was no time during all these months when he might not have demanded the vindication which has now come. But the ends of public justice were better served by his keeping silent, and he did so. His course has been altogether manly and praiseworthy.

THE friends of good government and honest elections in this city may as well recognize the fact that the fight for these objects is but just begun. "Coyism" is scotched, not killed. The gang and its organ give evidence of an intention to defend the whole tally-sheet forgery business from beginning to end, and if Coy is pardoned, as seems not unlikely, the battle will all have to be fought over again. And, at any rate, the battle must be kept up.

WE feel real sorry for the Atlanta Constitution. It would like to be an honest paper, but has not the courage. It feels awfully about the way the Cleveland machine is taking hold of recalcitrant anti-free-trade Democrats, and exhibits the "gripes" that have seized it; but it prefers to perish in its little bowels rather than disturb "party harmony," which, it says, is "momentously necessary." It is very sad.

EXPERTS who have been at work in the Kentucky State treasury have figured out that the cash balance is precisely $229,016.13 short. Ex-Treasurer Tate was seen in Canada recently, but Governor Buckner made no reply to a telegram from the authorities asking if he should be arrested. This was wrong; perhaps he would have been willing to compromise and even the thing up by paying the 13 cents.

THE New York Democratic convention did not specify the "reforms already inaugurated," and which could only be fully completed by the re-election of Grover Cleveland; but this was unnecessary. Everybody understands that there are a few fourth-class offices left out of which Republicans have not yet been "reformed."

LET us have electric lights, but without "sugar." Electric lights, asphalt pavements, sprinkled streets, double-ended cars and conductors, cable railways, an electric railway to Broad Ripple, that place to be made a pleasure resort of the best type—these, and a few other things, would make a beautiful and attractive city of Indianapolis.

IF a Republican candidate were asked the question whether he is for or against Coy and Coyism, he would not have to answer by an anecdote that means something or nothing, just as the questioner be minded to take it. Every Republican candidate would answer a question of that sort clearly and categorically.

A Good Work Well Done.

Muncie Times.

We doff our hat to the committee of one hundred at Indianapolis. But for their persistent perseverance the tally sheet forgers would perhaps still be a force in politics at the capital, and the crimes at the election of 1886 would have been repeated at every recurring election for some years to come. Now, the most daring of "the gang" will hardly take the risk of "tampering with the returns" for the sake of elevating some pet scoundrel to a place in which he will be of service to them without regard to the interests of the people.

Tender Sympathy.

Evening Wisconsin.

The bond of sympathy between the Michigan Democrats and Indiana copperheads is so strong that at the recent convention at Grand Rapids the chairman furiously denounced Senator Ingalls because of his graphic portraiture of that eminent copperhead Democrat, Dan W. Voorhees.

IN THE CARE OF THE JURORS

Judge Woods's Third Exhaustive Charge in the Election Conspiracy Cases.

He Traverses the Well-Worn Facts with a Freshness That Gives Them a New Interest to His Hearers.

Coy Misrepresented His Party and Betrayed His State and Country.

Reardon's Acquittal Suggested, but Sullivan's Denial of Meeting Schmidt Is Against Him—Efforts for Coy's Pardon.

THE CHARGE FROM THE BENCH.

A Clear and Forceful Setting Forth of the Law and Facts.

Judge Woods, yesterday morning, delivered his instructions to the jury in the election conspiracy cases. They were heard by a small number of spectators for an hour or more, but after that time the court-room began to fill and when he concluded the spectators were as numerous as they have been on any day of the trial. From the jury the judge received the closest attention, each member, seemingly, being desirous of following every detail of the case as he presented it. The instructions were longer than on previous occasion, but, aside from a more extensive review of the evidence relating especially to the defendants on trial, covered very much the same ground of law and fact. It is considered by lawyers and others the best review of the case he has yet given. The charge required two hours and three-quarters in delivery.

After briefly explaining the difference in practice between the United States and State courts and the power of judges of the former to consider both the law and the facts in instructing a jury, Judge Woods said:

"My labor in this case, with respect to the law, has been somewhat lightened by an event happening during the adjournment of a few days of the jury. The counsel for defense, who first addressed you, on resuming his argument in the morning, after an intermission over night, told you quite distinctly and emphatically that while the jurisdiction of this court, so far as itself was concerned, was settled, as a matter of fact, the defendants and their attorneys had questioned that jurisdiction from the start, and had questioned it at every step, and that the question was still open in the Court of Appeal. Whether he said it expressly or not, of course, that is what he meant. Since that hour, on last Monday, this particular case, so far as it affected Coy and Bernhamer, and so far as it might be taken to the Supreme Court of the United States upon an application for a writ of habeas corpus, involving particularly the question of jurisdiction, was passed upon by the Supreme Court, and the jurisdiction of this court and the rulings of this court in that respect were fully affirmed and upheld. So that, so far as that question is concerned, I am not under the necessity that I felt myself, in charging prior juries that sat in this case, of explaining the law in detail, and trying to convince the mind of the jury, as I deemed it proper to do. Even though I have a right to say to you that you are bound by my instructions, it is always desirable to have the assent of a juror's mind to a legal proposition, and so I have felt in other charges to the jury under the necessity of setting out the law in somewhat of detail, and convincing the mind of the jury that the court has jurisdiction of the matter. Indeed, if the court had no jurisdiction of the matter you would not be bound by the instructions of the court; the oath that you took when you entered the box would carry with it no legal sanction; it would be binding on you only as conscience made it binding, because a court that is proceeding without jurisdiction cannot administer a binding oath either to a jury or a witness; and if, as I have already stated, the court were proceeding without jurisdiction the jury would be without legal sanction in the box and bound by no oath or legal consequences of an oath, and no witness would be exposed to prosecution for perjury by any story he might tell before you under such circumstances. But, as I said, that question is disposed of by the Supreme Court.

"Some reference has been made to political considerations, and to a certain extent it is entirely proper that this should have been done. So far as the motive of any witness in testifying may have been influenced by his political bias one way or the other it is entirely proper that the jury should be on the alert to detect that element in his testimony, if it existed. And so, too, in the testimony of the defendants in this case, both as witnesses and defendants, you would have a right to consider how far their political biases and associations threw light upon the acts charged against them or the acts proved against them, and also upon their testimony in the case. But if you permit political considerations to go beyond this—it is not for me to say that they were designed by counsel to go beyond this; to this extent counsel had a right to discuss them—but if you permit these influences to go beyond this, to influence your minds to find a verdict without regard to the proof, then of course you have surrendered your integrity and would not be fit for the place you occupy. I have no suspicion at all, however, that there is any juror in the box that would be so influenced."

The judge then gave a history of the indictments, and instructed the jury as to the statute governing the case. In doing so he went over the matter of his former charge, as well as referring to Justice Harlan's decision, and describing the offense of which the defendants were charged. He then said:

"The law of the board of canvassers plays considerable part in this case, especially against the defendants Coy and Bernhamer, and in some degree against Mr. Spaan, and possibly in some degree against Mr. Sullivan, though less distinctly, if at all. And, since I have mentioned Mr. Coy and Mr. Bernhamer, I will here explain another doctrine applicable to the case. You know that Mr. Coy and Mr. Bernhamer have already been tried by the jury, under the instructions of the court, and have been found guilty. But these defendants were not on trial in connection with them. And so, in the trial of these defendants, who are, as you understand, Sullivan, Budd, Reardon, Metcalf and Counselman, in a sense the whole question is open again. In order to convict one man, it is necessary that you shall find that some other man was guilty, whether it be one who is on trial before you or not. For instance, you might in this case find that some particular one of these defendants you believed was guilty with somebody else, but not with any of the other defendants on trial with him, and you would have to go out and hunt a second man to be a co-conspirator with him. It might become necessary for you to determine whether Coy or Bernhamer was the co-conspirator. In that sense it would be necessary for you to try over again the question whether Coy or Bernhamer was guilty. In that respect it was legitimate for counsel to go into the evidence and to make discussions on the subject of the guilt of Coy and Bernhamer. The verdict of the former jury is not binding upon these defendants, although it is conclusive and binding upon Coy and Bernhamer individually. But for the purpose of determining whether Coy and Bernhamer are co-conspirators with these defendants you may consider the evidence yourself and revise the action of the former jury if you see there is cause for so doing.

"Mattler was also tried with Coy and Bernhamer, but he was found not guilty. In that respect the verdict of the former jury is conclusive. Mattler is not guilty absolutely. So far as this trial is concerned he is to be treated as not guilty in this respect. You cannot treat Mattler as the second man, to be a co-conspirator with any man on trial, because Mattler has been found not guilty of this offense, and that verdict—the law favors the citizen and his freedom—and that verdict I instruct, is conclusive. So that if you find any one of these defendants guilty with somebody else it must be with some person other than Mattler. It does not follow though, gentlemen, when you come to discuss the evidence that might bear on the question of Mattler's guilt that you are bound by the fact that he is found not guilty to take any particular view of this evidence so far as it bears on the guilt of these men on trial with themselves, or with some other one, to constitute the second man. You have right to your own view of that evidence, but you cannot, for the purpose of making out a second man in the case, treat Mattler in that capacity. You may believe that the jury was mistaken, but so far as the result in that respect is concerned you cannot review it.

"Now then, to illustrate, it was conceded on that board and Mr. Bernhamer ruled accordingly that when the inspector had not his outside papers with him they would send for the sealed bags. And yet when the inspector, Mr. Schmidt, handed up his papers and immediately discovered that they had been altered and asked to have his sealed bag sent for, Mr. Bernhamer, in obedience to the argument of Mr. Spaan, or in pursuance to the argument of Mr. Spaan, in the Hisey case, ruled that they could not send for the sealed bags. It was only where the other papers were not present that they could do that. Suppose Mr. Schmidt had happened to discover that his papers had been changed before he handed them up to Mr. Bernhamer—had opened his papers himself and had discovered the change, and his precinct being called he is asked to present his papers. As an honest man he would have had a right, and perhaps it may well be inferred that Mr. Schmidt, if he had opened the papers and discovered their condition, would have exercised the right, to have said: 'Gentlemen, I have in my hand a paper that I supposed was my tally-sheet, but I find if it is the paper it has been altered and changed, and I won't produce it as the genuine tally-sheet.' Is it possible that Mr. Bernhamer or any other sensible man could have believed that the board had the power in one case to send for the sealed bags and in the other had not? Mr. Schmidt's papers in the case, I suppose, would have been absent, at least he would have refused to produce them. Any inspector who wanted his sealed bags produced could have slipped out of the room and lodged his papers somewhere and come in and said: 'My papers are not here; I want the sealed bags sent for.' The ruling of the chair was in that case that the sealed bags could be sent for; but if, forsooth, the paper was produced and it was announced to be a forged or fraudulent paper, according to the ruling of Mr. Bernhamer or the board that controlled its action, the sealed bags could not be sent for.

"Now it was upon these considerations, or considerations like them, that the case of Mr. Bernhamer was submitted to the jury before. There is another item in the case of Mr. Bernhamer which I speak of out of the general line of my charge because it is more convenient to do it now than at another time. Mr. Bernhamer told you when he took the chair he asked for Mr. Many, a man of opposite politics, to sit by and see one paper while he called off from the other, with the purpose of fairness. But what does the report of the procedure before the board show, as produced before you? You have the short-hand report of what occurred when Mr. Schmidt's papers were before the board—a report which gives literally what occurred. Mr. Many was asked to state what the facts were with regard to Mr. Schmidt's papers—the changes were fresh, with fresh ink, and the blurring of the acid was plain on the paper. When some of the members of the board asked that Mr. Many be allowed to state what the condition of that paper was, Mr. Bernhamer ruled that that would be hearing evidence, and they could not stop to hear evidence with regard to the paper. In other words, he would not allow any member of the board to tell the other members present what the condition of the paper that they were called upon to pass as genuine was."

The Judge then, referring to Coy's appearance on the witness-stand, said:

"There are two things that ought to be sacred in this country: the ballot-box and the jury-box. Some people think, perhaps, that the ballot-box is more important than the jury-box; my impression is otherwise. The wrongs of the ballot-box are to be corrected, if at all, in the jury-box. The ballot-box cannot reach the jury-box, but the jury-box can reach the ballot-bot. Mr. Coy, besides having been convicted of tampering with the ballot or tally papers, confesses before you his connection, so far as he knew the facts, with the pollution of the jury-box. I do not mean that the jury was polluted, but so far as his acts and his conduct were concerned, he was accessory to acts of that kind. I imagine you will have very little difficulty in making up your minds as to what credit his testimony is entitled in the case, or as to what standing he ought to have before you.

"Now then, gentlemen, in respect to the general features of this case, I want to say to you again as I enter upon the consideration of the evidence that what I say is only advisory; I have no right to control your minds or judgment in respect to any question of fact; and so far as I have alluded to any question of fact in respect to any of the parties, or so far as I shall allude to any question of fact, it is only for the purpose of aiding you and not for the purpose of controlling your judgment, only so far as your judgment shall coincide with me after a full and complete consideration by you."

After briefly reviewing the facts relative to the papers and alterations on them, the judge said:

"The proposition has been advanced in argument in this case that those papers were altered for the sinister and wicked purpose as against some of these defendants since that canvassing board passed upon them, and the proposition necessarily embraces the further assertion that they were altered while they were in the custody of the officers of this court, a very serious charge indeed to be made, and in my judgment you will be compelled to find, made without any foundation whatever. I feel warranted in expressing myself strongly on this subject, and I shall call your attention to the matter somewhat fully and explicitly, because I think it capable of absolute demonstration from the testimony here that they were not changed after coming into the hands of this court, and that any pretense that they were is utterly fallacious and unfounded. Now what are the facts? Mr. McLain was before you. He was clerk of the county court. The proof shows that the papers as they were passed before the board of canvassers went into his possession, and his testimony shows that he put them into his safe. That was Friday morning some time. On Monday morning the papers were taken in custody by this court. They were locked up in a trunk, excepting the five sets that had already been brought to public attention, the Counselman, the Schmidt, the Hisey, the Oehler and the Edwards papers, five sets, which were already the subject of public comment. They were out by themselves. The other papers were locked in a trunk, of which Mr. McLain kept the key, after they were brought into the custody of this court. Now, what is the history of these papers from that time, on as developed before you by the witnesses? I shall not go outside of the testimony delivered in this case. Those papers came to the custody of this court on Monday after the canvassing board met. That was the first or second Monday in November. The grand jury of this court was immediately instructed to investigate this matter. Those five papers—not the Mattler and Baker papers—were taken before that grand jury and an investigation had and no indictments were returned. Then a procedure was instituted before Mr. Van Buren, a commissioner of the United States Circuit Court. Those papers were again taken before him. Of course these changes upon those five sets of papers were canvassed and witnesses were examined about them, presumably before the grand jury and certainly before Mr. Van Buren. Nothing developed, however, about the Mattler papers. This was in the latter part of November or early in December. In the progress of that examination before Mr. Van Buren Mr. Perkins was brought in and the government sought to obtain his testimony. He refused to testify. The suggestion has been made that Mr. Perkins was the author of these changes, he and Captain Ritter. It is suggested that either he, or he and Captain Ritter, did this. It is not very distinctly charged against Captain Ritter, but it is by innuendo, at least. Up to that time Perkins was not telling on anybody. He was going to jail rather than tell on anybody. It is not to be presumed then that during the three or four days that the papers were with the clerk—it would be going outside of the case and bringing in conjectures that would be unreasonable to indulge in—it was not to be presumed that while Perkins was standing out and going to jail that he had gone into the clerk's office by stealth or otherwise to make these changes on the Mattler papers. It necessarily must have occurred at some subsequent date, when the papers were in the hands of this court, as they have remained here ever since. Now, then, Perkins goes to jail, and by reason of a decision of the circuit judge of this circuit he was discharged and not compelled to testify. He went to jail in December, and was allowed his liberty just the day before New Years; the decision of the circuit judge was made some time in February, which was supposed to end the prosecutions of this court, as Perkins's testimony shows, and perhaps others. Efforts then began in the State courts. In the meantime Hisey, and Schmidt, and some others, possibly Mr. Mattler, had been before Mr. Van Buren, and some of the facts were gotten at, enough of the facts to fasten this thing on Perkins. I agree with counsel that Perkins was compelled to make terms with the State in order to secure his own safety. When Hisey and Mattler testified before Commissioner Van Buren, the evidence with regard to Hisey's papers furnished a conclusive case against Perkins, unless he could make some explanation showing that the papers were beyond his possession, and were changed by somebody else. The State officer and Captain Ritter, acting with the State officer, and employed, it seems, by the committee of one hundred, so-called; made terms with Mr. Perkins. You have seen that argument; much criticism has been made in respect to it; but for the purpose that I am now talking of, the agreement has a significance that has not been suggested to you. I believe it bears date the 28th of March. The 28th of March has now been reached, and Perkins makes this agreement to testify to facts that affect Mr. Coy only. At that time Mr. Perkins had not made up his mind to try to bring in anybody else, if he ever did make up his mind to do it of his own accord; so there arises a strong presumption, and Perkins has expressly stated to you that that agreement was prepared with a view of keeping the investigation within narrow limits and not extending it. The motives for that, of course, counsel has discussed. I leave them for you to consider so far as they have a proper bearing upon the case. At that time Perkins was not proposing, so far as he was acting voluntarily, to tell any story against anybody else; so that the presumption is fairly conclusive that he thus far had no motive in his mind to make any charge or to prepare a fictitious case against Mattler or Baker. The result of this agreement was that there was an investigation had before the grand jury of Marion county. The testimony of the clerk of this court—a gentleman whose integrity nobody assails—is that these five sets of papers were taken—not the Mattler or Baker papers but the five sets of papers were taken over before that grand jury, and the five sets of papers were taken before Judge Howe in regard to the investigation respecting the criminal judgeship. Until the second grand jury came to consider this case none but the five sets of papers had ever been called for, as the testimony shows before you. But during that investigation Mr. Coffin, as foreman of the grand jury, it is possible attended by Mr. Ritter, though he is not definite upon that subject; Mr. Coffin does not think he took Mr. Ritter with him: and it is entirely immaterial whether he did or not—during that investigation Mr. Coffin comes down and asks for the Mattler and Baker papers. Mr. Coffin says he asked for the Mattler and Schmidt papers, but Mr. Butler says it was the Mattler and Baker papers, and Mr. Coffin must be mistaken. It is before the jury that the five sets of papers had been made the subject of investigation. It was the Mattler and Baker papers he called for; the Clerk is clear upon that; and when he came to get them they had to send to McLain to get the keys of the trunk in order to find these papers and then they were produced for the first time. They were taken by Mr. Coffin before the jury and this indictment returned, which embraces those papers as well as the original five. Of course it has not been revealed before us just what witnesses were examined before the grand jury or how it happened to be developed; but some thing that was developed before the grand jury sent Mr. Coffin down after these papers. It was developed in the grand jury, and the papers were taken out. It came from some man who had knowledge of it before the papers were taken out, presumably, I think, from Perkins. And yet upon this state of facts, gentlemen, you are asked to believe that those papers were forged for the purpose of predicating a charge against Mattler and Baker after they had come in the custody of the officers of this court. You are asked to do it simply upon his testimony; that now these alterations in Mattler's papers, altered one way and then back again, are quite apparent on the paper, and Mr. Many testified that he was there passing over the papers as they were investigated, and his attention aroused by the conflict over the Hisey papers and did not see these changes, and he thinks he would have seen them if they had been there at that time. Of course, there is some force to that testimony, but that it should be used as an argument, or that argument should be based upon it to show that those papers had been changed either while in the custody of Mr. McLain or the clerk of this court, is to my mind unreasonable, not to say preposterous. However it is a question of fact for you, and I leave it for your consideration. Having said this much I come to the consideration of the case. Assuming—though it is not essential to bring the Mattler papers into the argument at all, but I assume it simply because it seems to me to be the indubitable truth—there were seven sets of papers that had been tampered with, two of them changed back so that there was no harm done except the mere harm of beginning a wrong.

"I start now with the assumption that there were seven sets of papers offered, all of them in respect to the criminal judge, and all of them in respect to other candidates. If you leave out the two and take in the five the argument is not essentially different. Now then, what do the papers themselves establish. They establish the ultimate purpose, the single purpose of changing the result in respect to criminal judge. Of course that purpose might have been in the mind of only one person. Seven sets of papers might have been changed by one man if he got hold of them; so that the mere fact that seven sets of papers are changed in one direction does not establish necessarily a conspiracy. I have already suggested to you the improbability that one man could get possession of all these papers without the concurrence of somebody else, so I think it may be fairly inferred from what we find in the papers themselves that more than one man was concerned in this matter, more than one man was necessary in order to get those papers in control, to get them out of their proper custody and get them in control so they could be thus altered, whether you think of it of being five or seven sets. So you start with the proposition that there was somebody included with Perkins in this matter. He admits his connection with it, and it is a fair inference from the papers themselves that somebody else was connected with it. But there is another consideration that is conclusive in my mind upon that proposition. Of course no man or set of men were making these changes in tally-sheets for fun, to see what a hub-bub it would make before the board of canvassers. That was not the object, just to get up a hub-bub before the board of canvassers. The object was to get them through and get them counted as changed. Well now, in your judgment was it in the power of Perkins or any other one man to do that? You have seen Perkins before you. He is not a dominating man. He is a man of shrewdness and brightness. Other phases of the matter I will consider as I go along in another point. But Perkins or no other man could get the altered papers passed by the board of canvassers controlled by men that intended an honest result, with papers yet wet with the ink used in making the alterations. Therefore the conclusion becomes stronger, to my mind it becomes absolute, that there was more than Perkins; there were more men than Perkins involved in this matter.

"Advancing a step further; it would be absolutely impossible—I will not say absolutely impossible, but morally impossible—to get such a state of forged papers through a canvassing board without the co-operation of the president of that board. This, in my mind, is the crowning fact in the evidence against Mr. Bernhamer. To say nothing about whether Mr. Bernhamer was an honest man or not—because in these public matters we are not concerned with a man's honesty—but suppose that he intended to have an honest count, an honest result in that board, he would have had it. Mr. Bernhamer had only to say so and those papers would never have been counted. Any other president of the board had only to say so and those papers could never have gotten through the board. I therefore infer, and I think you can do it unerringly, that it was prearranged to have a chairman in that canvassing board that would help accomplish the design. But the chairman could not get it through without some other help. Perhaps you begin to stop and inquire at once: 'Are we to convict these whole eighty-six men, or a great majority of these eighty-six men that were there of complicity in this crime?' By no means. These eighty-six men were inexperienced men, or the great majority of them. Mr. Hisey you have seen, and you have seen some others; many of them were weak men and some of them were comparatively strong men; but they were inexperienced. Besides, the atmosphere was full of charges and counter-charges from one side to the other. There was an outcry about the frauds that had been committed before. Whether those frauds had been committed, of course we do not know and so far as our investigation is concerned it is immaterial. So far as these are concerned or the motives of these men, you may fairly consider them. But now the probability, in my judgment, is that the great majority of those men in that board did not believe these charges of alterations in these papers; they believed it was some outcry gotten up to accomplish some other purpose. They were not permitted by Mr. Bernhamer—it was physically impossible that they should all come up and examine the papers themselves, and they were not permitted by Mr. Bernhamer to be told what was the appearance of the papers. They therefore did not believe that those charges were true. At any rate, it is easy to excuse the great majority of that board. That board was controlled by a few controlling men; Mr. Spaan was there as an attorney, and Mr. Coy was there representing his party—no, misrepresenting his party, betraying his party and his country. Controlling men had to push those through or else they never would have gotten through. Therefore, from these facts alone gentlemen, you are compelled, in my opinion to the conclusion that there is somebody else guilty besides Perkins. The argument that Perkins alone is responsible for these things is utterable untenable. The question then arises: 'Who are the guilty men?' Or rather: 'Are these the men now on trial?' That is the question now. What is the evidence in respect to them?

"The testimony of Perkins plays some part in this investigation, and it is proper now that I say something to you on that subject. Mr. Perkins appeared before you as a confessed criminal and confederate in this crime. Of course, that taints his character, throws doubt and suspicion upon his testimony. It is a settled principle of law, or rather a settled practice of the court, to advise juries to be very cautious about convicting anybody on the testimony of one standing in this attitude unless that testimony is well corroborated, and I so advise you. It would be tedious and useless for me to go into all the considerations that bear upon the testimony of Mr. Perkins. This agreement that he made with the State is criticized; that is a collateral issue, gentlemen, the merits of which we know but little about. The agreement itself is brought before us. It is an immemorial practice for the officers of the gov